IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10787 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

MANGABHAI CHANABHAI MERIYA

Appearance:

1. Special Civil Application No. 10787 of 2002

MR HARDIK C RAWAL for Petitioner No. 1

MR KISHOR M PAUL for Respondent No. 1

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 08/04/2003

ORAL JUDGEMENT

Heard learned advocate Mr. H.C. Raval for the petitioner corporation and Mr. K.M.Paul for the

respondent workman. Rule. Service of rule is waived by the learned advocate Mr. Paul for the respondent workman. In the facts and circumstances of the case, and with the consent of the learned advocates for the parties, the matter is taken up for final hearing today itself.

In this petition, the petitioner has challenged the award made by the labour court Rajkot in Reference (LCR) No. 136 of 2000 dated 15.5.2002 wherein the labour court, Rajkot has set aside the action of termination of the respondent workman from service as illegal and has directed the petitioner to reinstate the respondent workman in service with continuity of service and with 50 per cent of the back wages for the intervening period.

During the course of hearing, it was submitted by the learned advocate Mr. Raval that the petitioner has produced vide Exh.24 the default card of the respondent workman before the labour court but the same has not been taken into consideration by the labour court. According to him, as per the default card, the respondent has committed total 24 defaults in past out of which 10 are relating to absenteeism. He has submitted that the default card Exh. 24 has not been taken into consideration by the labour court while making the award of reinstatement with 50 per cent back wages for the intervening period and, therefore, the award in question is required to be quashed and set aside.

As against that, it was submitted by the learned advocate Mr. Paul on behalf of the respondent workman that this being the situation, since the labour court has made the award in question without considering the default card Exh. 24, the petition may be allowed by quashing and setting aside the award in question on that ground alone by directing the labour court concerned to reconsider the matter by taking into consideration the default card Exh. 24 and to make a fresh award within some reasonable period.

Considering the submissions made by the learned advocates for the parties and in view of the consent given by the learned advocate Mr. Paul for the respondent workman, without entering into the merits of the matter, the award made by the labour court in Reference (LCR) No. 136 of 2000 dated 15.5.2002 is hereby quashed and set aside. It is hereby directed to the labour court, Rajkot to pass appropriate award after considering the record at Exh. 24 and after giving reasonable opportunity to the parties without considering any fresh evidence in respect of the subject matter

before the labour court. Such fresh award is required to be passed by the labour court within three months from the date of receipt of copy of this order. Parties to the proceedings before the labour court are directed to extend their positive cooperation for expeditious disposal of the reference within the time stipulated hereinabove. It is clarified that this order has been passed by this court without entering into the merits of the matter and only on the ground that the record at Exh.24 has not been considered by the labour court and, therefore, the labour court is directed to decide the reference and make fresh award in accordance with the aforesaid directions without being influenced by the observations made by this court in this order.

This petition is accordingly allowed. Rule is made absolute in terms indicated hereinabove with no order as to costs.

Dt.8.4.2003. (H.K. Rathod,J.)

Vyas